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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,110	04/09/2004	Richard Gossweiler III	200401713-1	1713

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FORT COLLINS, CO 80527-2400

EXAMINER
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QUIETT, CARRAMAH J

ART UNIT	PAPER NUMBER
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2622

MAIL DATE	DELIVERY MODE
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06/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/822,110	GOSSWEILER ET AL.	
	Examiner	Art Unit	
	Carramah J. Quiett	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Objections*

1. Claims 3, 4, 13, and 14 are objected to because of the following informalities: Applicants did not introduce the terms "*the* group" and "*the* time" properly. Examiner suggests changing "*the* group" to "a group" and "*the* time" to "a time". Please correct other claims, which may have a similar informality. Appropriate correction is required.
2. Claims 5, 9 and 15 objected to because of the following informalities: Applicants did not introduce the term "*the* group" properly. Examiner suggests changing "*the* group" to "a group". Please correct other claims, which may have a similar informality. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-2, 6-8, 10-12, and 16** are rejected under 35 U.S.C. 102(b) as being anticipated by Matsumoto et al. (U.S. Pat. 5,796,428).

For **claim 1**, Matsumoto discloses a method of creating photo vignettes, said method comprising:

accessing digitized photos (col. 8, lines 13-20);

accessing photo-clustering parameters (col. 8, lines 28-35); and

clustering said digitized photos in accordance with said photo-clustering parameters to obtain digitized photo vignettes (col. 8, lines 28-35).

For **claim 2**, Matsumoto teaches the method as recited in Claim 1, further comprising:  
accessing a photo-distribution parameter (col. 8, lines 13-35); and  
enabling selective distribution of said digitized photo vignettes in accordance with said photo-distribution parameter (col. 8, lines 13-35).

For **claim 6**, Matsumoto teaches the method as recited in Claim 1, further comprising:  
Annotating at least a portion of said digitized photo vignettes with meta data pertaining to said digitized photo vignettes.

For **claim 7**, Matsumoto discloses a system for inducing acquisition of photo images (fig. 1), said system comprising:

a photo-accessor (110/111) for accessing photo images (col. 8, lines 13-20);  
a photo-clusterer (101) for clustering said photo images to obtain digitized photo vignettes (col. 8, lines 28-35); and  
a photo-distributor (102) for enabling selective distribution of said digitized photo vignettes such that a user is enabled to freely acquire said photo images and have said photo images automatically clustered into said digitized photo vignettes for selective distribution (col. 8, lines 13-35; col. 9, line 53 – col. 4; col. 11, line 59 – col. 12, line 11; col. 12, lines 24-45).  
Also, please see figs. 5, 12, 19, and 21-22.

For **claim 8**, Matsumoto discloses the system of Claim 7, further comprising:  
a media repository (104/109) for storing said photo images and said digitized photo vignettes (col. 8, lines 13-35).

For **claim 10**, Matsumoto discloses the system of Claim 7, wherein said photo-distributor comprises a digitized photo presentation module (ref. 113; col. 8, lines 13-27).

For **claim 11**, Matsumoto discloses a computer-readable medium (104/109) comprising computer executable instructions stored therein, said instructions for causing a computer system (fig. 1) to perform a method corresponding to method claim 1. Therefore, claim 11 is analyzed and rejected as previously discussed with respect to claim 1.

**Claims 12 and 16** are computer-readable medium, method claims corresponding to the method claims 2 and 6, respectively. Therefore, claims 12 and 16 are analyzed and rejected as previously discussed with respect to claims 2 and 6, respectively.

### *Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. **Claims 3, 4, 13, and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumoto et al. (U.S. Pat. 5,796,428) in view of Squilla et al. (U.S. Pat. #6,396,537).

For **claim 3**, Matsumoto teaches the method as recited in Claim 2, wherein said photo-distribution parameter is selected from the group consisting essentially of:

the time when said digitized photos were taken (col. 8, lines 52-56; col. 10, lines 35-52; figs. 10-12), the geographic location at which the digitized photos were taken (col. 13, line 31-67; figs. 31-34), the camera's position relative to the subject matter of said digitized photos (col. 12, line 62 – col. 13, line 30; figs. 26-30), a specified subject matter of said digitized photos (col. 9, line 53 – col. 10, line 35; figs. 5-9), the person who produced said digitized photos (col. 14, lines 1-37; figs. 5 and 35-38), a receiver of said digitized photo vignettes (fig. 1, ref. 102; col. 8, lines 13-35), and the confidentiality classification of the subject matter of said digitized photos (col. 9, line 53 – col. 10, line 4; fig. 5).

However, Matsumoto does not expressly teach wherein said photo-distribution parameter is the camera used to take said digitized photos.

In a similar field of endeavor, Squilla teaches the camera used to take said digitized photos (fig. 7, col. 8, lines 1-13). In light of the teaching of Squilla, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the photo-distribution parameter of Matsumoto in order to provide a method for accessing (reviewing) the capabilities of the camera (Squilla, col. 8, lines 1-22).

**Claims 4, 13 and 14** are method claims where each of claims 4, 13, and 14 corresponds to the method claim 3. Therefore, claims 4, 13, and 14 are each analyzed and rejected as previously discussed with respect to claim 3.

8. **Claims 5, 9, and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumoto et al. (U.S. Pat. 5,796,428) in view of Iida (U.S. 2004/0008260).

**Note:** Claim 9 will be discussed *first*.

For **claim 9**, Matsumoto discloses the system of Claim 7, wherein said photo-accessor is configured to access digitized photo images acquired from a photo-acquisition device selected from the group consisting essentially of:  
a conventional camera (fig. 1, ref. 101), and an existing repository (104/109). Please read col. 8, lines 18-35).

However, Matsumoto does not expressly disclose a digitized cell-phone camera, a video camera, a computer camera, a Personal Digital Assistant, and a photo Scanner.

In a similar field of endeavor, Iida discloses a digitized cell-phone camera, a video camera, a computer camera, a Personal Digital Assistant, and a photo Scanner. Please see fig. 1 and read pages 4-5, paragraphs 40 and 45-46. In light of the teaching of Iida, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a digitized cell-phone camera, a video camera, a computer camera, a Personal Digital Assistant, and a photo Scanner in the selection of the group for acquiring digitized photo images in order to provide a functional improvement system for the photography system thereby increasing the satisfaction of the user (Iida, page 1, paragraph 8).

**Claims 5 and 15** are method claims where each of claims 5 and 15 corresponds to the apparatus (system) claim 9. Therefore, claims 5 and 15 are each analyzed and rejected as previously discussed with respect to claim 9.

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9. <sup>claim 17 is</sup> ~~Claims 5, 9, and 16 are~~ rejected under 35 U.S.C. 103(a) as being unpatentable over  
Matsumoto et al. (U.S. Pat. 5,796,428) in view of Hull (U.S. Pat. #5,806,005). 14

For **claim 17**, Matsumoto discloses the computer-readable medium of Claim 11, comprising a digital storage device (fig. 1, refs. 104/109) including a CD, a diskette, and a digital memory device (col. 7, lines 38-40 and col. 7, line 61 – col. 8, line 11).

Matsumoto also discloses a cassette (magnetic tape device; col. 8, lines 6-8). However, Matsumoto does not expressly disclose video and electronic mail. In a similar field of endeavor, Hull discloses a digital storage device (fig. 1, ref. 12) including a video and electronic mail (col. 2, lines 1-30). In light of the teaching of Hull, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the digital storage device of Matsumoto to store video and email messages in order to provide larger storage capacity suitable for a portable device (Hull, col. 1, lines 7-23).

### *Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Parulski et al. (#6,629,104)	Method for adding personalized metadata to a collection of digital images.
Miyata (2003/0234875)	Imaging apparatus and method for creating and storing album files.
Patel et al. (6,747,692)	A data terminal, which captures images and processes image information.




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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carramah J. Quiett whose telephone number is (571) 272-7316. The examiner can normally be reached on 8:00-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NgocYen Vu can be reached on (571) 272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CJQ  
June 10, 2007



**LIN YE**  
**PRIMARY PATENT EXAMINER**